

Union Calendar No. 320

107TH CONGRESS
2^D SESSION

H. R. 4687

[Report No. 107-530]

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2002

Mr. BOEHLERT (for himself, Mr. WEINER, Mr. SHAYS, Mr. GRUCCI, Mr. LARSON of Connecticut, Mr. ISRAEL, Mrs. MORELLA, Mr. ETHERIDGE, Mr. EHLERS, Mr. BACA, Mr. FORBES, and Mr. BARCIA) introduced the following bill; which was referred to the Committee on Science

JUNE 25, 2002

Additional sponsors: Ms. DELAURO, Mr. UDALL of Colorado, and Mr. McNULTY

JUNE 25, 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 9, 2002]

A BILL

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure

that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “National Construction*
 5 *Safety Team Act”.*

6 **SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.**

7 *(a) ESTABLISHMENT.—The Director of the National*
 8 *Institute of Standards and Technology (in this Act referred*
 9 *to as the “Director”) is authorized to establish National*
 10 *Construction Safety Teams for deployment after events*
 11 *causing the failure of a building or buildings that has re-*
 12 *sulted in substantial loss of life or that posed significant*
 13 *potential for substantial loss of life. To the maximum extent*
 14 *practicable, the Director shall establish and deploy a Team*
 15 *within 48 hours after such an event. The Director shall*
 16 *promptly publish in the Federal Register notice of the estab-*
 17 *lishment of each National Construction Safety Team.*

18 *(b) PROCEDURES.—*

19 *(1) DEVELOPMENT.—Not later than 3 months*
 20 *after the date of the enactment of this Act, the Direc-*
 21 *tor, in consultation with the United States Fire Ad-*
 22 *ministration and other appropriate Federal agencies,*
 23 *shall develop procedures for the establishment and de-*
 24 *ployment of National Construction Safety Teams. The*

1 *Director shall update such procedures as appropriate.*

2 *Such procedures shall include provisions—*

3 *(A) regarding conflicts of interest related to*
4 *service on the Team;*

5 *(B) defining the circumstances under which*
6 *the Director will establish and deploy a National*
7 *Construction Safety Team;*

8 *(C) prescribing the appropriate size of Na-*
9 *tional Construction Safety Teams;*

10 *(D) guiding the disclosure of information*
11 *under section 8;*

12 *(E) guiding the conduct of investigations*
13 *under this Act;*

14 *(F) identifying and prescribing appropriate*
15 *conditions for the provision by the Director of*
16 *additional resources and services National Con-*
17 *struction Safety Teams may need;*

18 *(G) to ensure that investigations under this*
19 *Act do not impede and are coordinated with any*
20 *search and rescue efforts being undertaken at the*
21 *site of the building failure;*

22 *(H) for regular briefings of the public on*
23 *the status of the investigative proceedings and*
24 *findings;*

1 (I) guiding the National Construction Safe-
2 ty Teams in moving and preserving evidence as
3 described in section 5(a)(4), (b)(2), and (d)(4);

4 (J) providing for coordination with Fed-
5 eral, State, and local entities that may sponsor
6 research or investigations of building failures,
7 including research conducted under the Earth-
8 quake Hazards Reduction Act of 1977; and

9 (K) regarding such other issues as the Di-
10 rector considers appropriate.

11 (2) *PUBLICATION.*—The Director shall publish
12 promptly in the Federal Register final procedures,
13 and subsequent updates thereof, developed under para-
14 graph (1).

15 **SEC. 3. COMPOSITION OF TEAMS.**

16 National Construction Safety Teams shall be led by
17 an individual named by the Director. National Construc-
18 tion Safety Team members shall include at least 1 employee
19 of the National Institute of Standards and Technology and
20 shall include other experts who are not employees of the Na-
21 tional Institute of Standards and Technology, who may in-
22 clude private sector experts, university experts, representa-
23 tives of professional organizations with appropriate exper-
24 tise, and appropriate Federal, State, or local officials.

1 **SEC. 4. FUNCTIONS OF TEAMS.**

2 *National Construction Safety Teams shall—*

3 *(1) conduct investigations to establish the likely*
4 *technical cause or causes of the building failure;*

5 *(2) evaluate the technical aspects of evacuation*
6 *and emergency response procedures;*

7 *(3) recommend specific improvements to building*
8 *standards, codes, and practices based on the findings*
9 *made pursuant to paragraphs (1) and (2); and*

10 *(4) recommend research and other appropriate*
11 *actions needed to improve the structural safety of*
12 *buildings, and improve evacuation and emergency re-*
13 *sponse procedures, based on the findings of the inves-*
14 *tigation.*

15 **SEC. 5. AUTHORITIES.**

16 *(a) ENTRY AND INSPECTION.—In investigating a*
17 *building failure under this Act, members of a National Con-*
18 *struction Safety Team, and any other person authorized by*
19 *the Director to support a National Construction Safety*
20 *Team, on display of appropriate credentials provided by*
21 *the Director, may—*

22 *(1) enter property where a building failure being*
23 *investigated has occurred, or where building compo-*
24 *nents, materials, and artifacts with respect to the*
25 *building failure are located, and do anything nec-*
26 *essary to conduct the investigation;*

1 (2) *inspect any record (including any design,*
 2 *construction, or maintenance record), process, or fa-*
 3 *cility related to the investigation;*

4 (3) *inspect and test any building components,*
 5 *materials, and artifacts related to the building fail-*
 6 *ure; and*

7 (4) *move such records, components, materials,*
 8 *and artifacts as provided by the procedures developed*
 9 *under section 2(b)(1).*

10 (b) *AVOIDING UNNECESSARY INTERFERENCE AND*
 11 *PRESERVING EVIDENCE.—An inspection, test, or other ac-*
 12 *tion taken by a National Construction Safety Team under*
 13 *this section shall be conducted in a way that—*

14 (1) *does not interfere unnecessarily with services*
 15 *provided by the owner or operator of the building*
 16 *components, materials, or artifacts, property, records,*
 17 *process, or facility; and*

18 (2) *to the maximum extent feasible, preserves*
 19 *evidence related to the building failure, consistent*
 20 *with the ongoing needs of the investigation.*

21 (c) *COORDINATION.—*

22 (1) *WITH SEARCH AND RESCUE EFFORTS.—A*
 23 *National Construction Safety Team shall not impede,*
 24 *and shall coordinate its investigation with, any*

1 search and rescue efforts being undertaken at the site
2 of the building failure.

3 (2) *WITH OTHER RESEARCH.*—A National Con-
4 struction Safety Team shall coordinate its investiga-
5 tion, to the extent practicable, with qualified research-
6 ers who are conducting engineering or scientific (in-
7 cluding social science) research relating to the build-
8 ing failure.

9 (3) *MEMORANDA OF UNDERSTANDING.*—The Na-
10 tional Institute of Standards and Technology shall
11 enter into a memorandum of understanding with each
12 Federal agency that may conduct or sponsor a related
13 investigation, providing for coordination of investiga-
14 tions.

15 (d) *INTERAGENCY PRIORITIES.*—

16 (1) *IN GENERAL.*—Except as provided in para-
17 graph (2) or (3), a National Construction Safety
18 Team investigation shall have priority over any other
19 investigation of any other Federal agency.

20 (2) *NATIONAL TRANSPORTATION SAFETY*
21 *BOARD.*—If the National Transportation Safety
22 Board is conducting an investigation related to an
23 investigation of a National Construction Safety
24 Team, the National Transportation Safety Board in-
25 vestigation shall have priority over the National Con-

1 *struction Safety Team investigation. Such priority*
2 *shall not otherwise affect the authority of the Team to*
3 *continue its investigation under this Act.*

4 (3) *CRIMINAL ACTS.—If the Attorney General, in*
5 *consultation with the Director, determines, and noti-*
6 *fies the Director, that circumstances reasonably indi-*
7 *cate that the building failure being investigated by a*
8 *National Construction Safety Team may have been*
9 *caused by a criminal act with intent to cause the*
10 *building failure, the National Construction Safety*
11 *Team shall relinquish investigative priority to the ap-*
12 *propriate Federal law enforcement agency. The relin-*
13 *quishment of investigative priority by the National*
14 *Construction Safety Team shall not otherwise affect*
15 *the authority of the Team to continue its investiga-*
16 *tion under this Act.*

17 (4) *PRESERVATION OF EVIDENCE.—If a Federal*
18 *law enforcement agency suspects and notifies the Di-*
19 *rector that a building failure being investigated by a*
20 *National Construction Safety Team under this Act*
21 *may have been caused by a criminal act with intent*
22 *to cause the building failure, the National Construc-*
23 *tion Safety Team, in consultation with the Federal*
24 *law enforcement agency, shall take necessary actions*

1 to ensure that evidence of the criminal act is pre-
2 served.

3 **SEC. 6. BRIEFINGS, HEARINGS, WITNESSES, AND SUB-**
4 **POENAS.**

5 (a) *GENERAL AUTHORITY.*—The Director, on behalf of
6 a National Construction Safety Team, may conduct hear-
7 ings, administer oaths, and require, by subpoena and other-
8 wise, necessary witnesses and evidence as necessary to carry
9 out this Act.

10 (b) *BRIEFINGS.*—National Construction Safety Teams
11 shall hold regular public briefings on the status of investiga-
12 tive proceedings and findings.

13 (c) *PUBLIC HEARINGS.*—During the course of an in-
14 vestigation by a National Construction Safety Team, the
15 National Institute of Standards and Technology may, if the
16 Director considers it to be in the public interest, hold a pub-
17 lic hearing for the purposes of—

18 (1) gathering testimony from witnesses; and

19 (2) informing the public on the progress of the
20 investigation.

21 (d) *PRODUCTION OF WITNESSES.*—A witness or evi-
22 dence in an investigation under this Act may be summoned
23 or required to be produced from any place in the United
24 States. A witness summoned under this subsection is enti-

1 tled to the same fee and mileage the witness would have
2 been paid in a court of the United States.

3 (e) *ISSUANCE OF SUBPOENAS.*—A subpoena shall be
4 issued under the signature of the Director but may be served
5 by any person designated by the Director.

6 (f) *FAILURE TO OBEY SUBPOENA.*—If a person dis-
7 obeys a subpoena issued by the Director or a National Con-
8 struction Safety Team under this Act, the Director may
9 bring a civil action in a district court of the United States
10 to enforce the subpoena. An action under this subsection
11 may be brought in the judicial district in which the person
12 against whom the action is brought resides, is found, or does
13 business. The court may punish a failure to obey an order
14 of the court to comply with the subpoena as a contempt
15 of court.

16 **SEC. 7. ADDITIONAL POWERS.**

17 In order to support National Construction Safety
18 Teams in carrying out this Act, the Director may—

19 (1) procure the temporary or intermittent serv-
20 ices of experts or consultants under section 3109 of
21 title 5, United States Code;

22 (2) request the use, when appropriate, of avail-
23 able services, equipment, personnel, and facilities of a
24 department, agency, or instrumentality of the United
25 States Government on a reimbursable or other basis;

1 (3) confer with employees and request the use of
2 services, records, and facilities of State and local gov-
3 ernmental authorities;

4 (4) accept voluntary and uncompensated serv-
5 ices;

6 (5) accept and use gifts of money and other
7 property;

8 (6) make contracts with nonprofit entities to
9 carry out studies related to purpose, functions, and
10 authorities of the National Construction Safety
11 Teams; and

12 (7) provide nongovernmental members of the Na-
13 tional Construction Safety Team reasonable com-
14 pensation for time spent carrying out activities under
15 this Act.

16 **SEC. 8. DISCLOSURE OF INFORMATION.**

17 (a) *GENERAL RULE.*—Except as otherwise provided in
18 this section, a copy of a record, information, or investiga-
19 tion submitted or received by a National Construction Safe-
20 ty Team shall be made available to the public on request
21 and at reasonable cost.

22 (b) *EXCEPTION.*—Subsection (a) does not require the
23 release of information described by section 552(b) of title
24 5, United States Code, or protected from disclosure by any
25 other law of the United States.

1 (c) *PROTECTION OF VOLUNTARY SUBMISSION OF IN-*
 2 *FORMATION.*—*Notwithstanding any other provision of law,*
 3 *a National Construction Safety Team, the National Insti-*
 4 *tute of Standards and Technology, and any agency receiv-*
 5 *ing information from a National Construction Safety Team*
 6 *or the National Institute of Standards and Technology,*
 7 *shall not disclose voluntarily provided safety-related infor-*
 8 *mation if that information is not directly related to the*
 9 *building failure being investigated and the Director finds*
 10 *that the disclosure of the information would inhibit the vol-*
 11 *untary provision of that type of information.*

12 (d) *PUBLIC SAFETY INFORMATION.*—*A National Con-*
 13 *struction Safety Team and the National Institute of Stand-*
 14 *ards and Technology shall not publicly release any informa-*
 15 *tion it receives in the course of an investigation under this*
 16 *Act if the Director finds that the disclosure of that informa-*
 17 *tion might jeopardize public safety.*

18 **SEC. 9. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.**

19 *Not later than 90 days after completing an investiga-*
 20 *tion, a National Construction Safety Team shall issue a*
 21 *public report which includes—*

22 (1) *an analysis of the likely technical cause or*
 23 *causes of the building failure investigated;*

1 (2) *technical recommendations for changes to or*
 2 *the establishment of evacuation and emergency re-*
 3 *sponse procedures;*

4 (3) *recommended specific improvements to build-*
 5 *ing standards, codes, and practices; and*

6 (4) *recommendations for research and other ap-*
 7 *propriate actions needed to help prevent future build-*
 8 *ing failures.*

9 **SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
 10 **NOLOGY ACTIONS.**

11 *After the issuance of a public report under section 9,*
 12 *the National Institute of Standards and Technology shall*
 13 *comprehensively review the report and, working with the*
 14 *United States Fire Administration and other appropriate*
 15 *Federal and non-Federal agencies and organizations—*

16 (1) *conduct, or enable or encourage the con-*
 17 *ducting of, appropriate research recommended by the*
 18 *National Construction Safety Team; and*

19 (2) *promote the appropriate adoption by the*
 20 *Federal Government, and encourage the appropriate*
 21 *adoption by other agencies and organizations, of the*
 22 *recommendations of the National Construction Safety*
 23 *Team with respect to—*

24 (A) *technical aspects of evacuation and*
 25 *emergency response procedures;*

1 (B) specific improvements to building
2 standards, codes, and practices; and

3 (C) other actions needed to help prevent fu-
4 ture building failures.

5 **SEC. 11. NATIONAL INSTITUTE OF STANDARDS AND TECH-**
6 **NOLOGY ANNUAL REPORT.**

7 Not later than February 15 of each year, the Director
8 shall transmit to the Committee on Science of the House
9 of Representatives and to the Committee on Commerce,
10 Science, and Transportation of the Senate a report that
11 includes—

12 (1) a summary of the investigations conducted
13 by National Construction Safety Teams during the
14 prior fiscal year;

15 (2) a summary of recommendations made by the
16 National Construction Safety Teams in reports issued
17 under section 9 during the prior fiscal year; and

18 (3) a description of the actions taken by the Na-
19 tional Institute of Standards and Technology during
20 the prior fiscal year in response to reports issued
21 under section 9.

22 **SEC. 12. ADVISORY COMMITTEE.**

23 (a) *ESTABLISHMENT AND FUNCTIONS.*—The Director,
24 in consultation with the United States Fire Administration
25 and other appropriate Federal agencies, shall establish an

1 *advisory committee to advise the Director on carrying out*
2 *this Act and to review the procedures developed under sec-*
3 *tion 2(b)(1) and the reports issued under section 9.*

4 (b) *ANNUAL REPORT.*—*On January 1 of each year,*
5 *the advisory committee shall transmit to the Committee on*
6 *Science of the House of Representatives and to the Com-*
7 *mittee on Commerce, Science, and Transportation of the*
8 *Senate a report that includes—*

9 (1) *an evaluation of National Construction Safe-*
10 *ty Team activities, along with recommendations to*
11 *improve the operation and effectiveness of National*
12 *Construction Safety Teams; and*

13 (2) *an assessment of the implementation of the*
14 *recommendations of National Construction Safety*
15 *Teams and of the advisory committee.*

16 (c) *DURATION OF ADVISORY COMMITTEE.*—*Section 14*
17 *of the Federal Advisory Committee Act shall not apply to*
18 *the advisory committee established under this section.*

19 **SEC. 13. ADDITIONAL APPLICABILITY.**

20 *The authorities and restrictions applicable under this*
21 *Act to the Director and to National Construction Safety*
22 *Teams shall apply to the activities of the National Institute*
23 *of Standards and Technology in response to the attacks of*
24 *September 11, 2001.*

1 **SEC. 14. AMENDMENT.**

2 *Section 7 of the National Bureau of Standards Author-*
3 *ization Act for Fiscal Year 1986 (15 U.S.C. 281a) is*
4 *amended by inserting “, or from an investigation under the*
5 *National Construction Safety Team Act,” after “from such*
6 *investigation”.*

7 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

8 *There are authorized to be appropriated to the Na-*
9 *tional Institute of Standards and Technology for carrying*
10 *out this Act \$25,000,000 for each of the fiscal years 2003*
11 *through 2005, to remain available until expended.*

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A BILL

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